IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 253 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO No

5. Whether it is to be circulated to the Civil Judge? No :

JAGDISHCHANDRA BABULAL BHATT

Versus

STATE OF GUJARAT

Appearance:

MR JAL SOLI UNWALA for Petitioner

Shri M.A.Bukhari, A.P.P. for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 24/08/2000

ORAL JUDGEMENT

1. List has been revised twice. None appeared for the revisionist. Shri M.A.Bukhari, learned A.P.P. has been heard and the impugned order has been examined.

2. This Revision was admitted on 21.4.1998. The revision is apparently incompetent and not maintainable under Section 397(2) of the Code of Criminal Procedure because it is directed against the interlocutory order. The impugned order itself shows that on 26.2.1998 the revisionist was absent. No sufficient cause was shown for his absence. Consequently Non Bailable Warrant of arrest was issued. Instead of surrendering to the Non Bailable Warrant arrest, the revisionist has preferred to rush to this Court for getting the impugned order cancelled. On the face of it there is observation in the impugned order that it was a clear case of mis-use of bail. On several occasions the revisionist absented without sufficient cause on account of which charges could not be framed and the trial is held up. If a Magistrate issues warrant to secure the presence of the accused for framing of charge or for conducting the trial it is nothing but an interlocutory order and not a final order and against such order no revision lies. Consequently the revision has to be dismissed as not maintainable. In the file there is one Annexure : D, which is copy of order dated 3.4.1998 passed by this Court on the basis of which the impugned order is proposed to be challenged. However, that order does not come to the help of the revisionist because it was passed in Special Criminal Application No.181/98 where the jurisdiction of this Court in Criminal Writ petition is all together different and this Court could pass direction in the writ petition that the petitioner may not be arrested. That direction cannot be applied successfully in a revision Application.

3. Consequently this Revision Application is dismissed. Interim order is vacated.

sd/-

Date : August 24, 2000 (D. C. Srivastava, J.)

sas